

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Sherman Antonio Davis, #41738,

Plaintiff,

vs.

Officer Griggs and Officer Richmond,

Defendants.

Civil Action No. 6:07-4042-RBH-WMC

REPORT OF MAGISTRATE JUDGE

The plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On June 17, 2008, the defendants filed a motion to dismiss. On June 18, 2008, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the plaintiff was advised of the summary dismissal procedure and the possible consequences if he failed to respond adequately. On June 23, 2008, the envelope containing the plaintiff's copy of the order was returned, indicating the plaintiff was no longer incarcerated at the Lexington County Detention Center.¹ After investigation, the Clerk was able to obtain the plaintiff's current address and the *Roseboro* order was remailed on June 24, 2008. On July 11, 2008, the plaintiff filed a motion for extension of time to respond, which was granted by order filed July 14, 2008, giving the plaintiff through August 22, 2008. When the plaintiff failed to respond, a third order was filed giving him a final opportunity, through September 19, 2008, to do so. The plaintiff has elected not to respond to the motion.

Based on the foregoing, it appears the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989), *cert. denied*, 493 U.S. 1084 (1990).

September 22, 2008
Greenville, South Carolina

s/William M. Catoe
United States Magistrate Judge

¹By order of this court filed December 21, 2007, the plaintiff was advised to notify the Clerk in writing of any change of address.